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DEPARTMENT OF COMMERCE

International Trade Administration

(C-570-050)

Ammonium Sulfate from the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Effective June 14, 2016.

FOR FURTHER INFORMATION CONTACT: Robert Galantucci at (202) 482-2923, or

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International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION

The Petition

On May 25, 2016, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of ammonium sulfate from the People's Republic of China (PRC), filed in proper form on behalf of PCI Nitrogen, LLC (Petitioner). The CVD petition was accompanied by an antidumping duty (AD) petition, also concerning imports of ammonium sulfate from the PRC.<sup>1</sup> Petitioner is a domestic producer of ammonium sulfate.<sup>2</sup>

On May 31, 2016 and June 7, 2016 the Department requested information and

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<sup>1</sup> See "Petition for the Imposition of Antidumping and Countervailing Duties: Ammonium Sulfate from the People's Republic of China," dated May 25, 2016 (Petitions).

<sup>2</sup> See Volume I of the Petitions, at 1, and Exhibit I-1.

clarification for certain areas of the CVD Petition.<sup>3</sup> Petitioner filed responses to these requests on June 3, 2016 and June 9, 2016, respectively.<sup>4</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that the Government of the PRC (GOC) is providing countervailable subsidies (within the meaning of sections 701 and 771(5) of the Act) with respect to imports of ammonium sulfate from the PRC, and that imports of ammonium sulfate from the PRC are materially injuring, and threaten material injury to, the domestic industry producing ammonium sulfate in the United States. Also, consistent with section 702(b)(1) of the Act, for those alleged programs on which we have initiated a CVD investigation, the Petition is accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and that Petitioner has demonstrated sufficient industry support with respect to the initiation of the investigation Petitioner is requesting.<sup>5</sup>

#### Period of Investigation

The period of investigation is January 1, 2015, through December 31, 2015.<sup>6</sup>

#### Scope of the Investigation

The product covered by this investigation is ammonium sulfate from the PRC. For a full

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<sup>3</sup> See Letter from Robert Bolling to Petitioner, “Petition for the Imposition of Countervailing Duties on Imports of Ammonium Sulfate from the People’s Republic of China: Supplemental Questions,” dated May 31, 2016; *see also* Letter from Robert Bolling to Petitioner, “Petition for the Imposition of Countervailing Duties on Imports of Ammonium Sulfate from the People’s Republic of China: Supplemental Questions,” dated June 7, 2016.

<sup>4</sup> See Letter from Petitioner to Secretary of Commerce, “Ammonium Sulfate from the People’s Republic of China/Petitioner’s Response to the Department’s Questions Regarding the Petition,” dated June 3, 2016 (CVD Supplement); *see also* Letter from Petitioner to Secretary of Commerce, “Ammonium Sulfate from the People’s Republic of China/Petitioner’s Response to the Department’s Questions Regarding the Petition,” dated June 9, 2016 (CVD Second Supplement).

<sup>5</sup> See “Determination of Industry Support for the Petition” below.

<sup>6</sup> See 19 CFR 351.204(b)(2).

description of the scope of this investigation, *see* “Scope of Investigation” at Appendix I of this notice.

#### Comments on Scope of the Investigation

During our review of the Petition, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>7</sup>

As discussed in the preamble to the Department’s regulations,<sup>8</sup> we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope). The Department will consider all comments received from interested parties, and if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Monday, July 4, 2016, which is 20 calendar days from the signature date of this notice. However, as Monday July 4, 2016, is a Federal Holiday, interested parties may submit comments by 5:00 p.m. ET the next business day, Tuesday, July 5, 2016.<sup>9</sup> Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, July 15, 2016. The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party

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<sup>7</sup> See Letter from Robert Bolling to Petitioner “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Ammonium Sulfate from the People’s Republic of China: Supplemental Questions,” dated May 27, 2016 .

<sup>8</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>9</sup> See Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005).

subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must also be filed on the record of the concurrent AD investigation.

### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>10</sup> An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

### Consultations

Pursuant to section 702(b)(4)(A)(i) of the Act, the Department notified representatives of the GOC of the receipt of the Petition. Also, in accordance with section 702(b)(4)(A)(ii) of the Act, the Department provided representatives of the GOC the opportunity for consultations with respect to the CVD petition.<sup>11</sup> The GOC did not request consultations or submit comments to the Department on the alleged subsidy programs in lieu of consultations.

### Determination of Industry Support for the Petition

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<sup>10</sup> See 19 CFR 351.303 (for general filing requirements); *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>11</sup> See Letter of invitation from the Department, "Countervailing Duty Petition on Ammonium Sulfate from the People's Republic of China," dated May 31, 2016.

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>12</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>13</sup>

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<sup>12</sup> See section 771(10) of the Act.

<sup>13</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United*

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that ammonium sulfate, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>14</sup>

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. Petitioner and supporters of the Petition provided their own production of the domestic like product in 2015<sup>15</sup>. Petitioner also provided data from The Fertilizer Institute to determine total 2015 production of the domestic like product by the entire domestic industry<sup>16</sup>. To establish industry support, Petitioner compared the production of Petitioner and supporters of the Petition to the total 2015 production of the domestic like product for the entire domestic industry.<sup>17</sup> We relied

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*States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>14</sup> For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Ammonium Sulfate from the People’s Republic of China (PRC CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Ammonium Sulfate from the People’s Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>15</sup> *See* PRC CVD Initiation Checklist, at Attachment II.

<sup>16</sup> *See* PRC CVD Initiation Checklist, at Attachment II.

<sup>17</sup> *See* Volume I of the Petition, at 2-3, and Exhibits I-3, I-4, and I-5; *see also* Letter from Petitioner to Secretary of Commerce, “Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Ammonium

on data Petitioner provided for purposes of measuring industry support.<sup>18</sup>

Our review of the data provided in the Petition, General Issues Supplement, and other information readily available to the Department indicates that Petitioner has established industry support.<sup>19</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>20</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>21</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>22</sup> Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has

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Sulfate from the People's Republic of China: Supplemental Questions," dated June 1, 2016 (General Issues Supplement), at 5.

<sup>18</sup> See Volume I of the Petition, at 2-3, and Exhibits I-3, I-4, and I-5; *see also* General Issues Supplement, at 5. For further discussion, *see* PRC CVD Initiation Checklist.

<sup>19</sup> See PRC CVD Initiation Checklist, at Attachment II.

<sup>20</sup> See section 702(c)(4)(D) of the Act; *see also* PRC CVD Initiation Checklist, at Attachment II.

<sup>21</sup> See PRC CVD Initiation Checklist, at Attachment II.

<sup>22</sup> *Id.*

demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate.<sup>23</sup>

### Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>24</sup>

Petitioner contends that the industry’s injured condition is illustrated by reduced market share, underselling and price suppression or depression, lost sales and revenues, decline in shipments and production, and decline in financial performance.<sup>25</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>26</sup>

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<sup>23</sup> See PRC CVD Initiation Checklist, at Attachment II.

<sup>24</sup> See General Issues Supplement, at 5-6 and Exhibit I-S8.

<sup>25</sup> See Volume I of the Petition, at 15-23 and Exhibits I-13 through I-19; *see also* General Issues Supplement, at 5-6 and Exhibit I-S8.

<sup>26</sup> See PRC CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Ammonium Sulfate from the People’s Republic of China (Attachment III).



### Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to Petitioner supporting the allegations.

Petitioner alleges that producers/exporters of ammonium sulfate in the PRC benefit from countervailable subsidies bestowed by the GOC. The Department examined the Petition and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of ammonium sulfate from the PRC received countervailable subsidies from the GOC and various authorities thereof.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law.<sup>27</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>28</sup> The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.<sup>29</sup>

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on all 37 alleged programs in the PRC. For a full discussion of the basis for

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<sup>27</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>28</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>29</sup> *Id.*, at 46794-95.

our decision to initiate on each program, *see* the PRC CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

### Respondent Selection

Petitioner named 95 companies as producers/exporters of ammonium sulfate from the PRC.<sup>30</sup> Following standard practice in CVD investigations, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of ammonium sulfate during the period of investigation under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the scope in Appendix I, below. For this investigation, the Department will release CBP data for U.S. imports of subject merchandise during the period of investigation under the following HTSUS numbers: 3102.21.0000.<sup>31</sup> We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five business days of the announcement of this *Federal Register* notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found at <http://enforcement.trade.gov/apo/>.

Interested parties may submit comments regarding the CBP data and respondent selection by 5:00 p.m. ET on the seventh calendar day after publication of this notice. Comments must be filed in accordance with the filing requirements stated above. If respondent selection is necessary, we intend to base our decision regarding respondent selection upon comments

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<sup>30</sup> See Volume I of the Petition, at Exhibit I-10; *see also* General Issues Supplement at Exhibit I-S1.

<sup>31</sup> See General Issues Supplement at Exhibit I-S2.

received from interested parties and our analysis of the record information within 20 days of publication of this notice.

#### Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each known exporter (as named in the Petition), consistent with 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of ammonium sulfate from the PRC are materially injuring, or threatening material injury to, a U.S. industry.<sup>32</sup> A negative ITC determination will result in the investigation being terminated;<sup>33</sup> otherwise, this investigation will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The regulation requires any party, when submitting factual information, to specify under which subsection of

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<sup>32</sup> See section 703(a)(2) of the Act.

<sup>33</sup> See section 703(a)(1) of the Act.

19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in this investigation.

#### Extension of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>34</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>35</sup> The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

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<sup>34</sup> See section 782(b) of the Act.

<sup>35</sup> See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (“*Final Rule*”); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Dated: June 14, 2016

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

## Appendix I

### Scope of the Investigation

The merchandise covered by this investigation is ammonium sulfate in all physical forms, with or without additives such as anti-caking agents. Ammonium sulfate, which may also be spelled as ammonium sulphate, has the chemical formula  $(\text{NH}_4)_2\text{SO}_4$ .

The scope includes ammonium sulfate that is combined with other products, including by, for example, blending (*i.e.*, mixing granules of ammonium sulfate with granules of one or more other products), compounding (*i.e.*, when ammonium sulfate is compacted with one or more other products under high pressure), or granulating (incorporating multiple products into granules through, *e.g.*, a slurry process). For such combined products, only the ammonium sulfate component is covered by the scope of this investigation.

Ammonium sulfate that has been combined with other products is included within the scope regardless of whether the combining occurs in countries other than China.

Ammonium sulfate that is otherwise subject to this investigation is not excluded when commingled (*i.e.*, mixed or combined) with ammonium sulfate from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The Chemical Abstracts Service (CAS) registry number for ammonium sulfate is 7783-20-2.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 3102.21.0000. Although this HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

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